
By: **Senators Haines and Giannetti**
Introduced and read first time: February 12, 2003
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Residential Leases - Surety Bonds in Lieu of Security Deposits**

3 FOR the purpose of authorizing a tenant to purchase a surety bond in lieu of paying
4 a security deposit to a landlord to offer certain protection to a landlord;
5 providing that a tenant who chooses to purchase a surety bond in lieu of paying
6 a security deposit shall have certain rights; requiring a landlord to advise a
7 tenant in writing of the tenant's rights at the time the tenant pays the premium
8 for the surety bond; requiring a landlord to give a tenant a receipt for the
9 payment of a premium for a surety bond; requiring the receipt to meet certain
10 requirements; providing that the receipt may be included in a written lease;
11 providing that this Act may not be construed to authorize a landlord to require
12 that a tenant purchase a surety bond in lieu of paying a security deposit;
13 providing that it is solely the option of the tenant to purchase a surety bond in
14 lieu of paying a security deposit; and generally relating to a tenant's option to
15 purchase a surety bond in lieu of paying a security deposit.

16 BY repealing and reenacting, with amendments,
17 Article - Real Property
18 Section 8-203
19 Annotated Code of Maryland
20 (1996 Replacement Volume and 2002 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - Real Property**

24 8-203.

25 (a) (1) In this section the following words have the meanings indicated.

26 (2) "Landlord" means a landlord or a prospective landlord.

27 (3) "Security deposit" means any payment of money, including payment
28 of the last month's rent in advance of the time it is due, given to a landlord by a tenant

1 in order to protect the landlord against nonpayment of rent, damage due to breach of
2 lease, or damage to the leased premises, common areas, major appliances, and
3 furnishings.

4 (4) "Tenant" means a tenant or a prospective tenant.

5 (b) (1) A landlord may not impose a security deposit in excess of the
6 equivalent of two months' rent per dwelling unit, regardless of the number of tenants.

7 (2) If a landlord charges more than the equivalent of two months' rent
8 per dwelling unit as a security deposit, the tenant may recover up to threefold the
9 extra amount charged, plus reasonable attorney's fees.

10 (3) An action under this section may be brought at any time during the
11 tenancy or within two years after its termination.

12 (c) The landlord shall give the tenant a receipt for the security deposit as
13 specified in § 8-203.1 of this subtitle. The receipt may be included in a written lease.

14 (d) (1) (i) The landlord shall maintain all security deposits in federally
15 insured financial institutions, as defined in § 1-101 of the Financial Institutions
16 Article, which do business in the State.

17 (ii) Security deposit accounts shall be maintained in branches of
18 the financial institutions which are located within the State and the accounts shall be
19 devoted exclusively to security deposits and bear interest.

20 (iii) A security deposit shall be deposited in an account within 30
21 days after the landlord receives it.

22 (iv) The aggregate amount of the accounts shall be sufficient in
23 amount to equal all security deposits for which the landlord is liable.

24 (2) (i) In lieu of the accounts described in paragraph (1) of this
25 subsection, the landlord may hold the security deposits in insured certificates of
26 deposit at branches of federally insured financial institutions, as defined in § 1-101 of
27 the Financial Institutions Article, located in the State or in securities issued by the
28 federal government or the State of Maryland.

29 (ii) In the aggregate certificates of deposit or securities shall be
30 sufficient in amount to equal all security deposits for which the landlord is liable.

31 (3) In the event of sale or transfer of the landlord's interest in the leased
32 premises, including receivership or bankruptcy, the landlord or the landlord's estate,
33 but not the managing agent or court appointed receiver, shall remain liable to the
34 tenant and the transferee for maintenance of the security deposit as required by law,
35 and the withholding and return of the security deposit plus interest as required by
36 law, as to all or any portion of the security deposit that the landlord fails to deliver to
37 the transferee together with an accounting showing the amount and date of the
38 original deposit, the records of the interest rates applicable to the security deposit, if

1 any, and the name and last known address of the tenant from whom, or on whose
2 behalf, the deposit was received.

3 (4) Any successor in interest is liable to the tenant for failure to return
4 the security deposit, together with interest, as provided in this section.

5 (e) (1) Within 45 days after the end of the tenancy, the landlord shall return
6 the security deposit to the tenant together with simple interest which has accrued in
7 the amount of 4 percent per annum, less any damages rightfully withheld.

8 (2) Interest shall accrue at six-month intervals from the day the tenant
9 gives the landlord the security deposit. Interest is not compounded.

10 (3) Interest shall be payable only on security deposits of \$50 or more.

11 (4) If the landlord, without a reasonable basis, fails to return any part of
12 the security deposit, plus accrued interest, within 45 days after the termination of the
13 tenancy, the tenant has an action of up to threefold of the withheld amount, plus
14 reasonable attorney's fees.

15 (f) (1) (i) The security deposit, or any portion thereof, may be withheld
16 for unpaid rent, damage due to breach of lease or for damage by the tenant or the
17 tenant's family, agents, employees, guests or invitees in excess of ordinary wear and
18 tear to the leased premises, common areas, major appliances, and furnishings owned
19 by the landlord.

20 (ii) The tenant has the right to be present when the landlord or the
21 landlord's agent inspects the premises in order to determine if any damage was done
22 to the premises, if the tenant notifies the landlord by certified mail of the tenant's
23 intention to move, the date of moving, and the tenant's new address.

24 (iii) The notice to be furnished by the tenant to the landlord shall be
25 mailed at least 15 days prior to the date of moving.

26 (iv) Upon receipt of the notice, the landlord shall notify the tenant
27 by certified mail of the time and date when the premises are to be inspected.

28 (v) The date of inspection shall occur within five days before or five
29 days after the date of moving as designated in the tenant's notice.

30 (vi) The tenant shall be advised of the tenant's rights under this
31 subsection in writing at the time of the tenant's payment of the security deposit.

32 (vii) Failure by the landlord to comply with this requirement forfeits
33 the right of the landlord to withhold any part of the security deposit for damages.

34 (2) The security deposit is not liquidated damages and may not be
35 forfeited to the landlord for breach of the rental agreement, except in the amount that
36 the landlord is actually damaged by the breach.

1 (3) In calculating damages for lost future rents any amount of rents
2 received by the landlord for the premises during the remainder if any, of the tenant's
3 term, shall reduce the damages by a like amount.

4 (g) (1) If any portion of the security deposit is withheld, the landlord shall
5 present by first-class mail directed to the last known address of the tenant, within 45
6 days after the termination of the tenancy, a written list of the damages claimed under
7 subsection (f)(1) of this section together with a statement of the cost actually incurred.

8 (2) If the landlord fails to comply with this requirement, the landlord
9 forfeits the right to withhold any part of the security deposit for damages.

10 (h) (1) The provisions of subsections (e)(1) and (4) and (g)(1) and (2) of this
11 section are inapplicable to a tenant who has been evicted or ejected for breach of a
12 condition or covenant of a lease prior to the termination of the tenancy or who has
13 abandoned the premises prior to the termination of the tenancy.

14 (2) (i) A tenant specified in paragraph (1) of this subsection may
15 demand return of the security deposit by giving written notice by first-class mail to
16 the landlord within 45 days of being evicted or ejected or of abandoning the premises.

17 (ii) The notice shall specify the tenant's new address.

18 (iii) The landlord, within 45 days of receipt of such notice, shall
19 present, by first-class mail to the tenant, a written list of the damages claimed under
20 subsection (f)(1) of this section together with a statement of the costs actually
21 incurred and shall return to the tenant the security deposit together with simple
22 interest which has accrued in the amount of 4 percent per annum, less any damages
23 rightfully withheld.

24 (3) (i) If a landlord fails to send the list of damages required by
25 paragraph (2) of this subsection, the right to withhold any part of the security deposit
26 for damages is forfeited.

27 (ii) If a landlord fails to return the security deposit as required by
28 paragraph (2) of this subsection, the tenant has an action of up to threefold of the
29 withheld amount, plus reasonable attorney's fees.

30 (4) Except to the extent specified, this subsection may not be interpreted
31 to alter the landlord's duties under subsections (e) and (g) of this section.

32 (I) (1) IN LIEU OF PAYING A SECURITY DEPOSIT TO A LANDLORD UNDER
33 THIS SECTION, A TENANT MAY PURCHASE A SURETY BOND TO PROTECT THE
34 LANDLORD AGAINST NONPAYMENT OF RENT, DAMAGE DUE TO BREACH OF LEASE,
35 OR DAMAGE TO THE LEASED PREMISES, COMMON AREAS, MAJOR APPLIANCES, AND
36 FURNISHINGS.

37 (2) (I) A TENANT WHO CHOOSES TO PURCHASE A SURETY BOND IN
38 LIEU OF PAYING A SECURITY DEPOSIT UNDER THIS SUBSECTION SHALL HAVE ALL

1 OF THE RIGHTS OF A TENANT UNDER SUBSECTION (F)(1)(II) THROUGH (V) OF THIS
2 SECTION.

3 (II) A LANDLORD SHALL ADVISE A TENANT IN WRITING OF THE
4 TENANT'S RIGHTS UNDER THIS SUBSECTION AT THE TIME THE TENANT PAYS THE
5 PREMIUM FOR THE SURETY BOND.

6 (3) (I) A LANDLORD OR THE LANDLORD'S AGENT SHALL GIVE THE
7 TENANT A RECEIPT FOR THE PAYMENT OF THE PREMIUM FOR THE SURETY BOND.

8 (II) THE RECEIPT SHALL STATE CLEARLY AND CONSPICUOUSLY
9 THAT THE PREMIUM PAID FOR THE SURETY BOND IS NONREFUNDABLE AND WILL
10 NOT BE RETURNED TO THE TENANT.

11 (III) THE RECEIPT SHALL MEET THE APPLICABLE REQUIREMENTS
12 FOR A RECEIPT FOR A SECURITY DEPOSIT UNDER § 8-203.1 OF THIS SUBTITLE.

13 (IV) THE RECEIPT MAY BE INCLUDED IN A WRITTEN LEASE.

14 (4) (I) THIS SUBSECTION MAY NOT BE CONSTRUED TO AUTHORIZE A
15 LANDLORD TO REQUIRE A TENANT TO PURCHASE A SURETY BOND IN LIEU OF
16 PAYING A SECURITY DEPOSIT UNDER THIS SECTION.

17 (II) IT IS SOLELY THE OPTION OF THE TENANT TO PURCHASE A
18 SURETY BOND IN LIEU OF PAYING A SECURITY DEPOSIT UNDER THIS SECTION.

19 [(i)] (J) No provision of this section may be waived in any lease.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 July 1, 2003.